

Message Text

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USNATO - COL LYNCH (INFO)

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FM SECSTATE WASHDC

TO USMISSION NATO

C O N F I D E N T I A L STATE 077010

E.O. 11652: GDS

TAGS: MARR, NATO

SUBJECT: DISPOSITION OF NATO-HAWK JOINTLY-OWNED
MAINTENANCE FLOAT MATERIAL

REF: A. USNATO 1608; B. USNATO 1435; C. STATE 52466;
D. USNATO 1306; E. USNATO 1012; F. USNATO 5456 OF
DECEMBER 1972; G. LTR, FILE, HMO/10.9.01/5758/72

1. SUMMARY. WE BELIEVE THAT BURDEN SHOULD CONTINUE
TO LIE ON NATO HAWK GENERAL MANAGER TO DEMONSTRATE THAT
US HAS LOST OWNERSHIP OF NATO HAWK MAINTENANCE FLOAT ITEMS.
END SUMMARY.

2. IN REF A AND PREVIOUS, USNATO HAS REQUESTED A BRIEF
ON US LEGAL POSITION WITH RESPECT TO CONTINUING US
OWNERSHIP OF NATO HAWK MAINTENANCE FLOAT ITEMS. WE
BELIEVE THAT USNATO HAS ADEQUATELY COMMUNICATED US VIEWS
TO NATO HAWK BOARD OF DIRECTORS, AND THAT ONUS CONTINUES
TO BE ON NATO HAWK GENERAL MANAGER TO DEMONSTRATE THAT US
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HAS LOST OWNERSHIP OF ITS SHARE NATO HAWK MAINTENANCE

FLOAT ITEMS.

3. AS USNATO IS AWARE, TWO LEGAL QUESTIONS ARE INVOLVED. FIRST IS LEGAL STATUS OF MAINTENANCE FLOAT ITEMS PRIOR TO CONCLUSION OF MAY 29, 1972 AGREEMENT REGARDING CLOSING OUT OF MUTUAL ACCOUNTS UNDER NATO HAWK PRODUCTION PROGRAM.

ACCORDING TO REF (G) THE US GOVERNMENTS FINANCIAL SHARE OF MF ORIGINATED FROM THE PRODUCTION CONTRACT PAID FOR BY THE FIVE PARTICIPATING NATO-EUROPEAN COUNTRIES AND THE US. REF (F) CONCLUDES, AND DEPARTMENT AGREES, THAT US THEREBY ACQUIRED OWNERSHIP OF A SHARE OF THE HARDWARE IN THE MF, VALUE OF WHICH REF (G) ESTABLISHES AT DOLS 953,658. IN THIS CONNECTION WE NOTE FROM REF (A) THAT GENERAL MANAGER IS UNABLE TO PROVIDE JUSTIFICATION FOR ALLEGED US LOSS OF OWNERSHIP ADDITIONAL TO ARGUMENT REGARDING AFFECT OF FINAL FINANCIAL SETTLEMENT AGREEMENT, DEALT WITH IN PARAGRAPH 4 BELOW.

4. SECOND LEGAL ISSUE RELATES TO EFFECT OF FINAL FINANCIAL SETTLEMENT OF MAY 29, 1972, ON US RIGHTS. WE UNDERSTAND FROM REF E THAT NHMO TAKES POSITION THAT US RELINQUISHED TITLE TO ALL MAINTENANCE FLOAT ITEMS UNDER TERMS OF FINAL FINANCIAL SETTLEMENT. WE DO NOT AGREE. THAT AGREEMENT STRUCK A BALANCE BETWEEN TWO ITEMS ONLY: THE COST OF FOUR HAWK BATTALIONS DELIVERED TO THE USG UNDER THE MOU OF NOVEMBER 8, 1965, AND THE TOTAL COST OF THE REIMBURSEMENT SYSTEMS SUPPLIED BY THE US GOVERNMENT UNDER THE TECHNICAL ARRANGEMENT OF MARCH 31, 1960. OWNERSHIP OF US FINANCIAL SHARE OF MF ITEMS PAID FOR UNDER PRODUCTION CONTRACT IS NOT AMONG CREDITS OR OBLIGATIONS SPECIFIED BY FINAL FINANCIAL SETTLEMENT. ACCORDINGLY, US OWNERSHIP RIGHTS TO MAINTENANCE FLOAT ITEMS WERE NOT AFFECTED BY FINAL FINANCIAL SETTLEMENT. MF ITEMS OR VALUE THEREOF MUST THEREFORE BE RETURNED TO US. FYI: ACCEPTING TURNOVER OF FLOAT ITEMS WOULD REPRESENT FURTHER GRANT AID FOR WHICH RECIPIENT COUNTRIES ARE NOT ELIGIBLE UNDER US FOREIGN ASSISTANCE ACT. END FYI.

5. MISSION REQUESTED TO FURNISH FOREGOING, REPRESENTING
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OUR LEGAL OPINION, TO NATO HAWK GENERAL MANAGER.

6. FYI: AS SUGGESTED IN REF A, WE HAVE DISCUSSED THIS
MATTER WITH COL. LYNCH. END FYI.

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